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FACSIMILE TRANSMITTAL

TO:**Name:** Mail Stop AMENDMENT
Group Art Unit 3764/Examiner Michael Brown**Firm:** U.S. Patent & Trademark Office**Fax No.:** 571-273-8300**Subject:** U.S. Patent Application No. 09/412,082
Gary K. Michelson**Filed:** October 4, 1999**METHOD FOR INSERTING FRUSTO-CONICAL
INTERBODY SPINAL FUSION IMPLANTS****Attorney Docket No.** 101.0052-01000**Customer No.** 22882**Confirmation No.:** 9192**FROM:****Name:** Thomas H. Martin, Esq.**Phone No.:** 330-877-2277**No. of Pages (including this):** 5**Date:** October 13, 2006**Confirmation Copy to Follow:** NO

Message:**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate) and Reply to Office Action are being facsimile transmitted to the U.S. Patent and Trademark Office on October 13, 2006.



Sandra L. Blackmon

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FORM PTO-1083

OCT 13 2006

Attorney Docket No.: 101.0052-01000
Customer Number 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson, M.D.

Serial No: 09/412,082

Filed: October 4, 1999

For: METHOD FOR INSERTING FRUSTO-
CONICAL INTERBODY SPINAL FUSION
IMPLANTS

Confirmation No.: 9192

Art Unit: 3764

Examiner: Brown, M.

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is a reply to the October 4, 2006 Office Action in the above-identified application.

- ☒ No additional fee is required.
- ☐ Applicant hereby requests a *** -month extension of time to respond to the above office action.
- ☐ The total amount of \$___ to cover the above fees is enclosed.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-3726. **A copy of this sheet is enclosed.**
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims.
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17.

Respectfully submitted,
MARTIN & FERRARO LLPDate: October 13, 2006By: Thomas H. Martin
Thomas H. Martin
Registration No. 34,3831557 Lake O'Pines Street, NE
Hartville, Ohio 44632
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FORM PTO-1083

OCT 13 2006Attorney Docket No.: 101.0052-01000
Customer Number 22882**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Gary K. Michelson, M.D.

Serial No: 09/412,082

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Respectfully submitted,
MARTIN & FERRARO LLPDate: October 13, 2006By: Thomas H. Martin
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OCT 13 2006

PATENT
Attorney Docket No. 101.0052-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	Confirmation No.: 9192
Gary K. Michelson)	
Serial No.: 09/412,082)	Group Art Unit: 3764
Filed: October 4, 1999)	Examiner: Michael A. Brown
For: METHOD FOR INSERTING)	
FRUSTO-CONICAL INTERBODY)	
SPINAL FUSION IMPLANTS)	

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY TO OFFICE ACTION

In the Office Action dated October 4, 2006, the Examiner rejected claims 18 and 23-37 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 52-57, 60-78 and 81-92 of U.S. Patent No. 6,210,412; and objected to claims 19-22 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant submitted a Terminal Disclaimer dated June 28, 2001 in the above-identified application over U.S. Patent No. 6,210,412; thereby rendering the Examiner's rejections moot.

In view of the foregoing, it is respectfully submitted that the claims are patentable and the issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including

Reply to OA 10-13-06.doc

Application No. 09/412,082
Reply dated October 13, 2006
Reply to Office Action of October 4, 2006

any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: October 13, 2006

By: Thomas H. Martin
Thomas H. Martin
Registration No. 34,383

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